

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROGELIO ANDRADE,

Plaintiff,

— against —

A TO Z HARDWARE, INC and ABDO ALSAIDA,

Defendant.

22-CV-7304 (ARR) (CLP)

NOT FOR ELECTRONIC OR
PRINT PUBLICATION

OPINION & ORDER

ROSS, United States District Judge:

This Court has received the Report and Recommendation on the instant case dated February 5, 2024, from the Honorable Cheryl L. Pollak, United States Magistrate Judge. *See* R.& R., ECF No. 15. No objections have been filed. The Court reviews “de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b); *see also* *Brissett v. Manhattan & Bronx Surface Transit Operating Auth.*, No. 09-CV-874 (CBA)(LB), 2011 WL 1930682, at *1 (E.D.N.Y. May 19, 2011), *aff’d*, 472 F. App’x 73 (2d Cir. 2012) (summary order). Where no timely objections have been filed, “the district court need only satisfy itself that there is no clear error on the face of the record.” *Finley v. Trans Union, Experian, Equifax*, No. 17-CV-0371 (LDH)(LB), 2017 WL 4838764, at *1 (E.D.N.Y. Oct. 24, 2017) (quoting *Est. of Ellington ex rel. Ellington v. Harbrew Imps. Ltd.*, 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011)). Having reviewed the record, I find no clear error. I therefore adopt the Report and Recommendation, in its entirety, as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1).

Accordingly, the default motion is denied with prejudice as to plaintiff’s FLSA minimum wage claims in their entirety and plaintiff’s NYLL minimum wage claims for the period of December 1, 2016, to December 30, 2017. I also dismiss these claims pursuant to Rule 12(b)(6)

of the Federal Rules of Civil Procedure. The default motion is denied without prejudice as to plaintiff's remaining claims. As to the remaining claims, plaintiff is permitted to file an amended motion for default and revised supporting papers that address the various issues identified in the Report and Recommendation. Finally, the request for fees and costs is denied without prejudice. Ms. Stillman is permitted to submit a revised affidavit in support of her fee request along with the relevant billing records and proof of costs.

SO ORDERED.

/s/
Allyne R. Ross
United States District Judge

Dated: February 20, 2024
Brooklyn, New York